

REMARKS

In response to the Office Action mailed January 8, 2008, the Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following remarks.

Summary of the Office Action

In the January 8, 2008 Office Action, Claims 42-57, 63, 71, 72, 74, 75, 78-80, 82 and 84-86 stand rejected. Claims 73, 76, 77, 81 and 83 stand objected to by the Examiner. Claims 42-50, 71, 72, 74, 78-80 and 82 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,013,009 issued to Warren (hereinafter “Warren”) in view of U.S. Patent No. 5,606,743 issued to Vogt et al. (hereinafter “Vogt”). Claims 51-57, 63, 75 and 84-86 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Warren in view of U.S. Patent Publication No. 2003/0073460 to van Pelt et al. (hereinafter “van Pelt”) and U.S. Patent No. 6,650,894 issued to Berstis et al. (hereinafter “Berstis”).

Summary of the Amendment

Upon entry of this amendment, Applicants will have amended Claims 42, 51, 78, 84, and 85, canceled Claims 73, 76, and 83, and added new Claims 87-93. Accordingly, Claims 42-57, 63, 71-72, 74-75, 77-82, and 84-93 currently remain pending. Please note that in the amendments to the claims, deletions are indicated by strikethrough (e.g. ~~deletion~~) or double brackets (e.g. [[word]]) and additions to the claims are underlined (e.g. addition). Applicants respectfully submit that the present application is in condition for allowance.

Allowable Subject Matter

Claims 73, 76, 77, 81 and 83 stand objected to as being dependent upon a rejected base claim, however would be allowable if rewritten in independent form.

In accordance with the Examiner’s objection, Applicants have rewritten independent Claim 42 to include the features recited in its dependent Claim 73. Further, Applicants have rewritten independent Claim 51 to include the features recited in its dependent Claim 76. Furthermore, Applicants have rewritten independent Claim 78 to include the features recited in its dependent Claim 83. Finally, Applicants have also rewritten Claimed 84 to the features

recited in Claim 77. As such, Applicants respectfully submit that each of these independent claims is in condition for allowance.

Accordingly, Applicants respectfully request that the Examiner indicate that Claims 42, 51, 78, and 84 are allowable over the art of record. In addition, Applicants respectfully request that the Examiner indicate that dependent Claims 43-50, 52-57, 63, 71-72, 74-75, 77, 79-82, and 85-93 are allowable for at least the reason that these claims depend from allowable base claims.

Traversal of Rejection under 35 U.S.C. § 103(a)

In the Office Action, Claims 42-50, 71, 72, 74, 78-80 and 82 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Warren in view of Vogt. Furthermore, Claims 51-57, 63, 75 and 84-86 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Warren van Pelt and Berstis. Applicants respectfully submit that these rejections are now moot in light of the amendments to the claims discussed above, in which Applicants have incorporated allowable subject matter into the independent claims of the application.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Co-Pending Applications of Assignee

Applicants wish to draw the Examiner's attention to the following co-pending applications of the present application's assignee.

Serial Number	Title	Filed	Atty Docket No.
10/963,290	ACTUATOR CONFIGURATION FOR EYEGLASS WITH MP3 PLAYER	10-12-2004	NOCODE2.5C1DV2
10/628,847	ELECTRONIC EYEWEAR WITH HANDS-FREE OPERATION	07-28-2003	NOCODE2.005C3
11/417,854	ELECTRONIC EYEWEAR WITH HANDS-FREE OPERATION	05-03-2006	NOCODE2.5C3DV1
11/869,704	WIRELESS INTERACTIVE HEADSET	11-09-2007	NOCODE2.5CP2C1
11/022,367	DATA INPUT MANAGEMENT SYSTEM FOR WEARABLE ELECTRONICALLY ENABLED INTERFACE	12-22-2004	NOCODE2.007A
11/418,160	EYEGLASS WITH MP3 PLAYER	05-03-2006	OAKLY1.172C3
11/418,154	EYEGLASSES WITH WIRELESS COMMUNICATION FEATURES	05-03-2006	OAKLY1.278C2
11/352,938	EYEWEAR WITH DETACHABLE MODULE	02-13-2006	OAKLY1.271A

CONCLUSION

Applicants respectfully submit that the above rejections and objections have been overcome and that the present application is now in condition for allowance. Therefore, the Applicants respectfully request that the Examiner indicate that Claims 42-57, 63, 71-72, 74-75, 77-82, and 84-93 are acceptable and allowed. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Applicants respectfully submit that the claims are in condition for allowance in view of the above remarks. Any remarks in support of patentability of one claim, however, should not be imputed to any other claim, even if similar terminology is used. Additionally, any remarks referring to only a portion of a claim should not be understood to base patentability on that portion; rather, patentability must rest on each claim taken as a whole. Applicants respectfully traverse each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein. Although amendments have been made, no acquiescence or estoppel is or should be implied thereby. Rather, the amendments are made only to expedite prosecution of the present application, and without

prejudice to presentation or assertion, in the future, of claims on the subject matter affected thereby. Applicants also have not presented arguments concerning whether the applied references can be properly combined in view of, among other things, the clearly missing elements noted above, and Applicants reserve the right to later contest whether a proper reason exists to combine these references and to submit indicia of the non-obviousness of the claimed management system.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claim and drawings in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call the Applicants' attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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